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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

May 22, 1998

**VIA MESENGER**
Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W. Room 222
Washington, D.C. 20554

**Re: Written and Oral Ex Parte Presentations of Connecticut Telephone and Communication Systems, Inc.;**
**CC Docket No. 98-25; CC Docket Nos. 95-20, 98-10**

Dear Madam Secretary:

On May 21, 1998, Joseph Mazzarella, Executive Vice President and General Counsel of Connecticut Telephone and Communication Systems, Inc. ("Connecticut Telephone"), Steven Sheftel, Assistant General Counsel of Connecticut Telephone, Robert Kelly of Squire, Sanders & Dempsey L.L.P., counsel to Connecticut Telephone, and Douglas Povich also of Squire, Sanders & Dempsey L.L.P. met with Elizabeth Nightingale, Radhika Karmarkar and Daniel Shiman of the Policy and Program Planning Division of the Commission's Common Carrier Bureau regarding the above-referenced dockets. During the meeting, Connecticut Telephone handed out a copy of a written ex parte presentation in CC Docket No. 98-25, two copies of which are enclosed in accordance with Commission rule §1.1206. The discussion covered the items and substance set forth in the handout and touched briefly on the Commission's consideration in CC Dockets 95-20 and 98-10 of the distinction between basic and enhanced services as it relates to voice mail. Connecticut Telephone presented its view that end users now consider voice mail to be a basic service. Two copies of this presentation also have been provided for that proceeding.

Please address any inquiries regarding this matter to the undersigned.

Sincerely,

Douglas L. Povich

Enclosures
cc: Elizabeth Nightingale, Radhika Karmarkar, Daniel Shiman

**Ex Parte Submission of Connecticut Telephone and Communication Systems, Inc.**
**CC Docket No. 98-25**

Application of Southern New England Telecommunications Corporation and SBC Communications, Inc. for Authority, Pursuant to Part 22 of the Commission's Rules to Transfer Control of Licenses

Connecticut Telephone does not object to the merger of SBC and SNET *provided* the Commission imposes appropriate conditions to the merger that will correct certain existing inequities and alleviate the negative effects that the merger may have on competition. As fully set forth below, Connecticut Telephone submits that along with any approval of the merger, the Commission should:

1. require SBC and SNET to offer their voice mail services to CLECs for resale at wholesale prices;

2. require SNET to permit the assumption of existing centrex and digital centrex contracts ("CA") on a bundled basis at wholesale rates without the imposition of termination penalties;

3. require SNET to adopt meaningful Operation Support System ("OSS") interfaces;

4. require SBC to provide CLECs that have wholesale relationships with SNET immediate access to SBC's local exchange services and wireless services on a region-wide resale basis, and require SBC to negotiate in good faith to establish such arrangements prior to the effective date of the merger; and

5. withhold approval of the merger until SNET demonstrates that it has satisfied the competitive checklist found in Section 251 of the Act in order to prevent the combined SNET/SBC from executing a price squeeze in the provision of interexchange services.

## I. CONNECTICUT TELEPHONE HAS A SIGNIFICANT INTEREST IN THIS PROCEEDING

Connecticut Telephone is a reseller of local exchange, cellular, paging, international, long distance, Internet access and other value-added telecommunications services throughout the state of Connecticut. More significantly, it is one of only a few CLECs that are actively pursuing both business and residential local exchange customers in Connecticut in competition with SNET. Connecticut Telephone furnishes local service on a resale basis through SNET wholesale product offerings and is SNET Mobility's largest independent cellular reseller. Accordingly, Connecticut Telephone is keenly interested in this proceeding and can provide a unique insight into the state of local and wireless service competition in Connecticut.

unwilling to pay or unable to pay. On top of this, SNET charges the customer's new service provider a service initiation fee. Neither of these fees would be necessary if SNET would simply allow the CA contracts of its dissatisfied customers to be assumed by CLECs.

The effect of this practice is to force customers either to remain with SNET and forego all of the benefits offered by a CLEC such as Connecticut Telephone (*e.g.*, a single point of contact, one bill, superior customer service, aggregate cost savings) or pay a discriminatory and non-cost justified early termination penalty. The early termination penalties are apparently designed to compensate SNET for stranded costs associated with the termination of a contract. However, when a customer switches to a CLEC such as Connecticut Telephone, there is absolutely no change or reconfiguration to the facilities and SNET continues to receive revenue and profit from the service. The only differences are that Connecticut Telephone is substituted for the customer as the party to bill and SNET makes its profit from the wholesale rate rather than the retail rate.[1] Thus, the only purpose behind SNET's refusal to allow CLECs to assume CA is to frustrate competition in the market for local business services.

C. Operating Support Systems

A third area of deep concern centers around SNET's provisioning of its operating support systems ("OSS") by which Connecticut Telephone and other CLECs order and receive local exchange services. SNET has had in place for several years (pre-dating the Act) a technologically advanced, PC-based, OSS which it uses for pre-ordering, ordering, provisioning, billing, maintenance and repair functions, among others. Although this system is available to SNET and its third party agents, there is no meaningful interface between SNET's OSS and the local service resellers in Connecticut, all of whom are entirely dependent on that system for providing resold local exchange services to their customers. Thus, instead of clicking a few keys on a PC to place an order for local service, Connecticut Telephone is forced to first request a customer service record by facsimile and then manually complete order forms (LSRs) and then transmit the information by telephone or facsimile. These cumbersome procedures invariably result in significant delays in obtaining service and dramatically increase the likelihood of errors in the ordering process. Without access to an equally fast and efficient interface for OSS functions, CLECs such as Connecticut Telephone are placed at a significant competitive disadvantage vis-a-vis SNET, its agents and its retail affiliate.

In light of these barriers to the development of local competition in Connecticut, Connecticut Telephone submits that the Commission should take advantage of the opportunity presented by this proceeding to open the local market in Connecticut to competition. First, the Commission should require SNET to offer voice mail as a resold service. Doing so will promote competition in the local exchange market by permitting resellers to compete on a more equal basis

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[1] The Commission has already recognized that restrictions such as these on CAs are essentially anticompetitive: "[I]n the BellSouth South Carolina Order, we expressed concern that BellSouth's failure to offer contract service arrangements for resale at a discount in South Carolina impedes competition for its large-volume customers and thus impairs the use of resale as a vehicle for competitors to enter BellSouth's market. . . ." *BellSouth Louisiana Order*, FCC 98-17, para. 68.

with SNET's affiliated CLEC for the large number of business of customers that require voice mail services.

Moreover, as a further condition of approval of the merger, the Commission should require SNET to resell the CA through means of contract assumption. As demonstrated above, there are no network reconfiguration costs and SNET would continue to profit from the CA, only at the wholesale rate. This means that the sole purpose for refusing to permit CLECs to assume CA contracts is to discourage competition, and the sole purpose for requiring customers to pay termination penalties is to hold those customers hostage. SNET's practice must be remedied as condition to approval of the merger in order to ensure that local competition in Connecticut does not continue to be frustrated.

Finally, the Commission should adopt safeguards with respect to OSS similar to those adopted in the order approving the Bell Atlantic/NYNEX merger.[2] Connecticut Telephone believes that, if adhered to, this set of conditions will address many of SNET's practices that to date have served to frustrate competition for local services in Connecticut.

## III. THE COMMISSION SHOULD REQUIRE SBC TO OPEN ITS LOCAL EXCHANGE AND WIRELESS SERVICES TO COMPETITION ON A REGION-WIDE BASIS AS A CONDITION TO APPROVAL OF THE MERGER

SNET is not alone in its efforts to ward off the advent of competition in the provision of local services. SBC has engaged in conduct that demonstrates its desire to preserve its local monopoly. To Connecticut Telephone's knowledge, SBC has not entered into any resale arrangements with any CLECs that would enable local or wireless service resale throughout the entire SBC service region. Although SBC, as a result of the merger, would be able to provide local and wireless services on an integrated basis throughout its region, local and wireless service resellers such as Connecticut Telephone currently are denied the same opportunity. To the extent that local service resellers in Connecticut will be subjected to competition from SBC in Connecticut, those CLECs should be afforded a reciprocal opportunity to compete with SBC throughout its region, without having to negotiate with SBC on a state-by-state basis. Similarly, if SNET Mobility is able to offer wireless service plans that include coverage over the entire integrated SBC service area, wireless resellers in that service area should be permitted to resell the same extended coverage area plans.

Accordingly, as a condition to the merger, the Commission should require SBC, first, to affirmatively demonstrate that it will provide to its wholesale customers, *i.e.*, CLECs and wireless resellers, the same region-wide local and wireless calling plans that it provides to its retail customers and, second, to negotiate in good faith to establish such arrangements prior to the effective date of the merger. Approval subject to these conditions will exert positive pressure both on SNET to open the local market in Connecticut to competition and on SBC to open all of its local and wireless markets to competition, thereby diminishing SNET/SBC's ability to frustrate local competition.

---

[2] *Bell Atlantic/NYNEX Order*, FCC 97-286 (August 14, 1997).

## IV. THE COMMISSION SHOULD ADOPT SAFEGUARDS TO PREVENT SNET/SBC FROM DISCRIMINATING AGAINST COMPETING INTER-EXCHANGE CARRIERS

Pursuant to Sections 271 and 272 of the Act, the Bell Operating Companies ("BOCs") are not allowed to provide in-region, inter-LATA telecommunications services, until the carriers satisfy the statute's "competitive checklist" and separate affiliate requirements.[3] Unlike the BOCs, SNET is currently allowed to provide and does provide inter-LATA telecommunications services. Thus, as soon as the merger is consummated, SBC may be able to provide long-distance services through a monopoly incumbent local exchange carrier ("ILEC") that does not have to comply with the competitive checklist in Section 271. For this reason, the proposed transaction poses a serious threat to competition in the long distance market.

The Commission has repeatedly recognized that ILECs and their interexchange affiliates have the ability and incentive to engage in a price squeeze "by virtue of their dual role as a provider of an essential input and a competitor in the retail market using that input."[4] More specifically, ILECs can do so by maintaining "high" rates for their monopoly interstate access services, while maintaining "low" rates for their affiliate's competitive long distance services. Such pricing, in turn, forces long distance competitors either to lose customers or lose money by matching the ILEC affiliate's artificially low rates, while paying inflated interstate access fees.

The combination proposed by SBC and SNET poses an unusually high risk of a price squeeze because the same entity, SBC, will be the monopoly provider of <u>both</u> originating and terminating access services for long distance calls between Connecticut and SBC's primary region. At the same time, SNET will be in a strong position to lower its long-distance rates below those of its competitors in order to complete the squeeze. First, due to its affiliation with SBC, SNET will, in effect, only be required to pay the true economic cost of originating and terminating access services for calls between Connecticut and SBC's territory. Second, the infusion of cash from the merger transaction will give SNET the financial resources necessary subsist on uneconomically low rates until its competitors have been forced from the market.

Given the serious risk to interexchange competition posed by the joining of SBC and SNET, Connecticut Telephone submits that, if the transaction is approved, appropriate conditions should be imposed on the merged entity to safeguard competition in the long-distance market. In particular, the Commission should withhold approval of the merger until SNET demonstrates that it has satisfied the competitive checklist set forth in Section 251 of the Act. This will block SBC's attempt to make an end run on the Act's entry requirements for BOC provision of inter-LATA services and, while the application is pending, reduce the carrier's incentive to collaborate in a price squeeze strategy.

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3 *See* 47 U.S.C. paras. 271, 272.

4 *International Settlement Rates*, 12 FCC Rcd 19806, 19906 (1997); *see Application of NYNEX Corporation Transferor, and Bell Atlantic Corporation, Transferee, For Consent to Transfer Control of NYNEX Corporation and Its Subsidiaries*, FCC 97-286, File No. NSD-L-96-10, paras. 115-17 (rel. Aug. 14, 1997).

## V. THE ELIMINATION OF SBC AS A POTENTIAL COMPETITOR TO SNET WILL FURTHER DELAY THE DEVELOPMENT OF LOCAL COMPETITION IN CONNECTICUT, ABSENT THE IMPOSITION OF APPROPRIATE CONDITIONS

Given these carriers' records, there is little reason to believe that SBC and SNET's proposed merger will, by itself, enhance local competition. To the contrary, the proposed combination will eliminate a likely entrant into SNET's monopoly local exchange region and, as a result, seriously diminish the potential for effective local competition in Connecticut. SBC's elimination from this pool of potential SNET competitors should not be underestimated. Other potential market entrants are likely to lack the financial and other resources necessary to compete with SNET. This reality is aptly illustrated by the fact that SNET, by its own admission and despite the concerted efforts of Connecticut Telephone and others, still controls over 98 percent of the relevant local exchange market. SNET's market power and ability to restrain new entrants will only be enhanced by SBC's considerable financial and technical backing. Moreover, the proposed SNET/SBC entity will retain the ability to impede competition for some time.[5]

The elimination of a likely competitor to SNET, and the financial fortitude of the combined entity, provide further justification for the Commission to impose the conditions suggested above by Connecticut Telephone. Such conditions will serve to offset the likelihood for diminished competition that would otherwise result from the proposed merger.

## VI. CONCLUSION

For the foregoing reasons, the Commission should take the following steps to ensure that the proposed merger will serve the public interest: (1) require SBC and SNET to offer their voice mail services to CLECs for resale at wholesale prices; (2) require SNET to permit the assumption of existing contracts governing CA on a bundled basis at wholesale rates without the imposition of termination penalties; (3) require SNET to follow through on providing meaningful OSS interfaces; (4) require SBC to provide CLECs that have wholesale relationships with SNET immediate access to SBC's local exchange services and wireless services on a region-wide resale basis and require SBC to negotiate in good faith to establish such arrangements prior to the effective date of the merger; and (5) withhold approval of the merger until SNET demonstrates that it has satisfied the competitive checklist found in Section 251 of the Act in order to prevent the combined SNET/SBC from executing a price squeeze in the provision of interexchange services.

---

[5] As the Commission has found, carriers "with market power may retain the ability to engage in discriminatory behavior long after the entry of new competitors." *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market,* IB Docket No. 97-142, FCC 97-398, at para. 159 (rel. Nov. 26, 1997).

# Traver Electric Motor Co., Inc.

151 Homer Street
WATERBURY, CONN. 06704
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FAX: 203-573-9352

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March 4, 1998

Joseph Mazzarella
Executive Vice President
& General Counsel
Connecticut Telephone
1271 South Broad Street
Wallingford, CT 06492

Dear Mr. Mazzarella,

Traver Electric has been a cellular and paging customer of Connecticut Telephone since June of 1997. Because we have been very pleased with the services and competitive rates that we receive from Connecticut Telephone, we have decided to switch both our local Centrex service and long distance service from SNET to Connecticut Telephone.

Unfortunately, we have been advised that Connecticut Telephone is unable to provide us with Voice Mail. However, I have been advised that Connecticut Telephone is attempting to resell SNET's Voice Mail product and is anticipating that it will be able to do so, thus providing us with Voice Mail within six months. It is essential to our business that we have Voice Mail. We understand that while Connecticut Telephone may not be able to provide us with Voice Mail, we can receive this service from SNET, if we remain with SNET. Therefore, although Traver Electric prefers to do business with Connecticut Telephone, you agree that if Connecticut Telephone is unable to provide us with Voice Mail within the next six months, we can terminate our Centrex agreement with Connecticut Telephone without penalty.

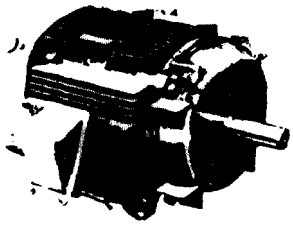
Very truly yours,

Dave Dispoto
Service & Automation Manager

cc: JS

ELECTRICAL APPARATUS SERVICE ASSOCIATION
EASA MEMBER

DATE & RETURN _____



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Please address any inquiries regarding this matter to the undersigned.

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## I. CONNECTICUT TELEPHONE HAS A SIGNIFICANT INTEREST IN THIS PROCEEDING

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## II. THE COMMISSION SHOULD REQUIRE SBC/SNET TO OPEN THE LOCAL EXCHANGE MARKET IN CONNECTICUT TO COMPETITION AS A CONDITION TO APPROVAL OF THE MERGER

Under the Telecommunications Act of 1996 (the "Act") carefully balanced framework, the promise of entry into the inter-LATA services market provides the BOCs with an incentive to open their local markets to new entrants. Because SNET is already in the inter-LATA services market, however, just the opposite is true. A merged SBC/SNET will have virtually no incentive to open the local market in Connecticut to competition. This particularly impacts companies like Connecticut Telephone that provide local service through resale of SNET's wholesale service and, therefore, are highly dependent on the availability and quality of SNET's wholesale products and customer service support. Unfortunately, Connecticut Telephone's experience thus far with SNET's local wholesale offering can not be characterized as positive. The following are examples of the pattern of conduct engaged in by SNET to preserve its dominant market share created by its local monopoly over the last hundred years.

### A. Voice Mail

In order to keep its customers captive, SNET has repeatedly refused to allow Connecticut Telephone to resell SNET's voice mail services. SNET's consistent refusal to provide voice mail for resale has impaired Connecticut Telephone's ability to offer a full compliment of local exchange services which business customers in particular deem essential. In fact, Connecticut Telephone is in jeopardy of losing certain existing customer accounts due to its inability to successfully obtain voice mail service from SNET (see, for example, attached customer letter), and is unable to subscribe new customers otherwise interested in Connecticut Telephone's local service due to this limitation.

Moreover, SNET has refused to allow Connecticut Telephone's retail local exchange customers to purchase voice mail services from SNET on a retail basis. When these customers attempt to satisfy their voice mail needs by requesting SNET's voice mail service through SNET's retail channels, their requests are denied on the basis that the customer has local exchange service with Connecticut Telephone. The effect of these actions is to maintain current market domination, limit the development of local competition, and to deny consumers access to desired services and are unreasonable restrictions on common carrier obligations.

### B. Centrex Agreements

SNET also has made it more difficult for its business customers to switch carriers by refusing to permit Connecticut Telephone to resell centrex and digital centrex agreements ("CAs") to end user customers. CAs represent a significant percentage of all of SNET's local exchange business. Instead of simply permitting Connecticut Telephone to administer the existing contracts by stepping into the shoes of the end user and becoming SNET's customer, SNET requires its end users to terminate their service, and, thus, violate the terms of the CA. Because most of these contracts run for a term of years (typically, three to five years), this means that SNET's customers must pay an early termination penalty (calculated at the full monthly cost of service multiplied by the remaining months of the contract) which most customers are absolutely

unwilling to pay or unable to pay. On top of this, SNET charges the customer's new service provider a service initiation fee. Neither of these fees would be necessary if SNET would simply allow the CA contracts of its dissatisfied customers to be assumed by CLECs.

The effect of this practice is to force customers either to remain with SNET and forego all of the benefits offered by a CLEC such as Connecticut Telephone (*e.g.*, a single point of contact, one bill, superior customer service, aggregate cost savings) or pay a discriminatory and non-cost justified early termination penalty. The early termination penalties are apparently designed to compensate SNET for stranded costs associated with the termination of a contract. However, when a customer switches to a CLEC such as Connecticut Telephone, there is absolutely no change or reconfiguration to the facilities and SNET continues to receive revenue and profit from the service. The only differences are that Connecticut Telephone is substituted for the customer as the party to bill and SNET makes its profit from the wholesale rate rather than the retail rate.[1] Thus, the only purpose behind SNET's refusal to allow CLECs to assume CA is to frustrate competition in the market for local business services.

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Accordingly, as a condition to the merger, the Commission should require SBC, first, to affirmatively demonstrate that it will provide to its wholesale customers, *i.e.*, CLECs and wireless resellers, the same region-wide local and wireless calling plans that it provides to its retail customers and, second, to negotiate in good faith to establish such arrangements prior to the effective date of the merger. Approval subject to these conditions will exert positive pressure both on SNET to open the local market in Connecticut to competition and on SBC to open all of its local and wireless markets to competition, thereby diminishing SNET/SBC's ability to frustrate local competition.

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## IV. THE COMMISSION SHOULD ADOPT SAFEGUARDS TO PREVENT SNET/SBC FROM DISCRIMINATING AGAINST COMPETING INTER-EXCHANGE CARRIERS

Pursuant to Sections 271 and 272 of the Act, the Bell Operating Companies ("BOCs") are not allowed to provide in-region, inter-LATA telecommunications services, until the carriers satisfy the statute's "competitive checklist" and separate affiliate requirements.[3] Unlike the BOCs, SNET is currently allowed to provide and does provide inter-LATA telecommunications services. Thus, as soon as the merger is consummated, SBC may be able to provide long-distance services through a monopoly incumbent local exchange carrier ("ILEC") that does not have to comply with the competitive checklist in Section 271. For this reason, the proposed transaction poses a serious threat to competition in the long distance market.

The Commission has repeatedly recognized that ILECs and their interexchange affiliates have the ability and incentive to engage in a price squeeze "by virtue of their dual role as a provider of an essential input and a competitor in the retail market using that input."[4] More specifically, ILECs can do so by maintaining "high" rates for their monopoly interstate access services, while maintaining "low" rates for their affiliate's competitive long distance services. Such pricing, in turn, forces long distance competitors either to lose customers or lose money by matching the ILEC affiliate's artificially low rates, while paying inflated interstate access fees.

The combination proposed by SBC and SNET poses an unusually high risk of a price squeeze because the same entity, SBC, will be the monopoly provider of both originating and terminating access services for long distance calls between Connecticut and SBC's primary region. At the same time, SNET will be in a strong position to lower its long-distance rates below those of its competitors in order to complete the squeeze. First, due to its affiliation with SBC, SNET will, in effect, only be required to pay the true economic cost of originating and terminating access services for calls between Connecticut and SBC's territory. Second, the infusion of cash from the merger transaction will give SNET the financial resources necessary subsist on uneconomically low rates until its competitors have been forced from the market.

Given the serious risk to interexchange competition posed by the joining of SBC and SNET, Connecticut Telephone submits that, if the transaction is approved, appropriate conditions should be imposed on the merged entity to safeguard competition in the long-distance market. In particular, the Commission should withhold approval of the merger until SNET demonstrates that it has satisfied the competitive checklist set forth in Section 251 of the Act. This will block SBC's attempt to make an end run on the Act's entry requirements for BOC provision of inter-LATA services and, while the application is pending, reduce the carrier's incentive to collaborate in a price squeeze strategy

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3 *See* 47 U.S.C. paras. 271, 272.

4 *International Settlement Rates*, 12 FCC Rcd 19806, 19906 (1997); *see Application of NYNEX Corporation Transferor, and Bell Atlantic Corporation, Transferee, For Consent to Transfer Control of NYNEX Corporation and Its Subsidiaries*, FCC 97-286, File No. NSD-L-96-10, paras. 115-17 (rel. Aug. 14, 1997).

## V. THE ELIMINATION OF SBC AS A POTENTIAL COMPETITOR TO SNET WILL FURTHER DELAY THE DEVELOPMENT OF LOCAL COMPETITION IN CONNECTICUT, ABSENT THE IMPOSITION OF APPROPRIATE CONDITIONS

Given these carriers' records, there is little reason to believe that SBC and SNET's proposed merger will, by itself, enhance local competition. To the contrary, the proposed combination will eliminate a likely entrant into SNET's monopoly local exchange region and, as a result, seriously diminish the potential for effective local competition in Connecticut. SBC's elimination from this pool of potential SNET competitors should not be underestimated. Other potential market entrants are likely to lack the financial and other resources necessary to compete with SNET. This reality is aptly illustrated by the fact that SNET, by its own admission and despite the concerted efforts of Connecticut Telephone and others, still controls over 98 percent of the relevant local exchange market. SNET's market power and ability to restrain new entrants will only be enhanced by SBC's considerable financial and technical backing. Moreover, the proposed SNET/SBC entity will retain the ability to impede competition for some time.[5]

The elimination of a likely competitor to SNET, and the financial fortitude of the combined entity, provide further justification for the Commission to impose the conditions suggested above by Connecticut Telephone. Such conditions will serve to offset the likelihood for diminished competition that would otherwise result from the proposed merger.

## VI. CONCLUSION

For the foregoing reasons, the Commission should take the following steps to ensure that the proposed merger will serve the public interest: (1) require SBC and SNET to offer their voice mail services to CLECs for resale at wholesale prices; (2) require SNET to permit the assumption of existing contracts governing CA on a bundled basis at wholesale rates without the imposition of termination penalties; (3) require SNET to follow through on providing meaningful OSS interfaces; (4) require SBC to provide CLECs that have wholesale relationships with SNET immediate access to SBC's local exchange services and wireless services on a region-wide resale basis and require SBC to negotiate in good faith to establish such arrangements prior to the effective date of the merger; and (5) withhold approval of the merger until SNET demonstrates that it has satisfied the competitive checklist found in Section 251 of the Act in order to prevent the combined SNET/SBC from executing a price squeeze in the provision of interexchange services.

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[5] As the Commission has found, carriers "with market power may retain the ability to engage in discriminatory behavior long after the entry of new competitors." *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market,* IB Docket No. 97-142, FCC 97-398, at para. 159 (rel. Nov. 26, 1997).